

37 Am. Jur. 2d Fraud and Deceit § 30

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Fraud and Deceit

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II. Elements and Requisites

A. Basis of Action

2. Essential Elements of Action

§ 30. Conspiracy to commit fraud

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Fraud](#)  1 to 7, 26

A claim of conspiracy to commit fraud, standing alone, is not actionable; a lawful act done in a lawful way, no matter how damaging the result, cannot be the basis for a claim of fraudulent conspiracy even if it was performed maliciously.¹

Observation:

Some statutes mandate a certain scheme or conspiracy as an element of the fraud; accordingly, mail and wire fraud require an additional element, which is the existence of a scheme reasonably calculated to deceive persons of ordinary prudence and comprehension.²

Fraud and civil conspiracy are separate torts.³

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Footnotes

¹ [Callahan v. Gutowski](#), 111 A.D.2d 464, 488 N.Y.S.2d 519 (3d Dep't 1985).

² [Globe Internat., Inc. v. Superior Court](#), 9 Cal. App. 4th 393, 12 Cal. Rptr. 2d 109 (2d Dist. 1992), opinion modified,

(Sept. 9, 1992).

³ [Fisher v. Yates](#), 953 S.W.2d 370 (Tex. App. Texarkana 1997), review denied with per curiam opinion, [988 S.W.2d 730](#) (Tex. 1998).

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